

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

DAVID THOMPSON,)	
)	
Movant,)	
)	
v.)	Case No. CV415-064
)	CR413-166
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

After pleading guilty to possession of a firearm by a convicted felon, doc. 21, David Thompson moved under 28 U.S.C. § 2255 to vacate his conviction and sentence. Doc. 23. His motion was denied, and the Court declined to issue a Certificate of Appealability. Docs. 53 (report and recommendation denying motion), *adopted*, doc. 60. Thompson appealed anyway, docs. 61-63, and he has asked this Court for permission to proceed with his appeal *in forma pauperis*. Doc. 64.

An appeal cannot be taken *in forma pauperis* if the trial court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3); *see* Fed. R. App. P. 24(a)(3) (trial court may certify that appeal of party proceeding *in forma pauperis* is not taken in good faith

“before or after the notice of appeal is filed”). A party does not proceed in good faith when he seeks to advance a frivolous claim or argument. *Coppedge v. United States*, 369 U.S. 438, 445 (1962); *Neitzke v. Williams*, 490 U.S. 319, 327 (1989) (a claim or argument is frivolous when it appears the factual allegations are clearly baseless or the legal theories are indisputably meritless); *Napier v. Preslicka*, 314 F.3d 528, 531 (11th Cir. 2002) (an *in forma pauperis* action is frivolous and, thus, not brought in good faith, if it is “without arguable merit either in law or fact”).

The Court reiterates its prior ruling on the merits in advising that Thompson’s § 2255 motion should be denied and no Certificate of Appealability should be issued. *See* Doc. 53. Movant’s arguments that the plea deal was coerced and lacked sufficient consideration and that his attorney provided ineffective assistance as to the plea agreement and sentencing have been considered and resoundingly denied. Docs. 53, 59. There are no non-frivolous issues to raise on appeal, and an appeal would not be taken in good faith. 28 U.S.C. § 1915(a)(3). *See Neitzke*, 490 U.S. at 327; *Napier*, 314 F.3d at 531.

Thus, the Court should DENY movant’s application for *in forma*

pauperis status on appeal.

SO REPORTED AND RECOMMENDED, this 11th day of
October, 2016.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA